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P&G Case 4546RC2D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of

James W. Cree et al.

Serial No. 09/304,716

Filed May 4, 1999

For ABSORBENT ARTICLE HAVING FUSED LAYERS

: Confirmation No. 1077
: Group Art Unit 3761
: Examiner Kidwell, Michelle M

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APPELLANT'S BRIEF

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Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir,

This appeal of Claims 6-8 and 10-12 currently pending in the above application that were finally rejected by the Examiner in an Office Action dated April 2, 2002. A timely Notice of Appeal was submitted by the Appellant on May 14, 2002. Appellant's brief is submitted in triplicate.

REAL PARTY IN INTEREST

The Appellant who is named in the caption of the Brief has assigned this application to The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

Appellant, Appellant's legal representative, and the assignee are not aware of any appeals or interferences which would be directly affected by or have a bearing on the Board's decision in the pending Appeal.

STATUS OF CLAIMS

Claims 6-8 and 10-12 are rejected. Claims 6-8 and 10-12 are being appealed. A copy of Claims 6-8 and 10-12 on appeal appears in the attached Appendix A.

STATUS OF AMENDMENTS

Appellant's have not filed an amendment subsequent to the Final rejection of the claims. The Applicant is appealing from a Final rejection of Claims mailed on April 2, 2002 in which the Examiner considered the response to an Office Action mailed on January 14, 2002 unpersuasive.

SUMMARY OF INVENTION

An absorbent article, such as a diaper, sanitary napkin, adult incontinent device, and the like having fused layers is provided. The absorbent articles preferably comprise a liquid permeable top layer, a liquid impermeable back layer, and a liquid absorbent core disposed between said top layer and said back layer. The top layer having a central zone and side zones at both sides of the central zone. The top layer including an upper layer of a thermoplastic synthetic resinous material and a lower layer of thermoplastic synthetic fibers which is more hydrophilic than the upper layer but less hydrophilic than said core. The upper and lower layers being intermittently bonded together by thermally embossing said side zones and the central zone being thicker than the side zones.

ISSUE

Whether Claims 6-8 and 10-12 are unpatentable under 35 U.S.C. § 102(e) as being anticipated by Reising, (U.S. Patent No. 4,988,345).

GROUPING OF CLAIMS

Claims 6-8 and 10-12 are within the same patentable grouping and will stand and fall together.

ARGUMENTS

Claims 6-8 and 10-12 are pending in the application and stand rejected under 35 U.S.C. § 102(e).

Whether Claims 6-8 and 10-12 are unpatentable under 35 U.S.C. § 102(e) as being anticipated by Reising, (U.S. Patent No. 4,988,345).

Claims 6-8 and 10-12 stand rejected under 35 USC 102 (e) as being anticipated by Reising (U.S. Patent No. 4,988,345). As to both independent claims 6 and 12, the examiner contends that Reising discloses a sanitary napkin having a liquid permeable top layer, a liquid impermeable back layer (40), and a liquid absorbent core (48) disposed between the top layer and the back layer. According to the examiner, the top layer is said to include an upper layer (38) of thermoplastic synthetic resinous material and a lower layer (50) of thermoplastic synthetic fibers.

In contrast to Reising, applicants' invention according to claims 6 and 12, requires that the liquid absorbent core be disposed between the liquid permeable top layer and the liquid impermeable back layer. The liquid permeable top layer includes an upper layer and a lower layer. As can be clearly seen from Fig. 3 of Reising, (a copy of which is attached), the absorbent

core (48) is disposed between the upper layer (38) of the liquid permeable top layer and the back layer (40) in the portions of the product designated "A" in Fig. 3. In the portions of the product designated "B" the absorbent core (48) is disposed between the upper layer (38) and the lower layer (50) of the liquid permeable top layer. Nowhere does Reising teach or suggest that the absorbent core (48) be disposed between a liquid permeable top layer which is comprised of an upper layer and lower layer and a liquid impermeable back layer.

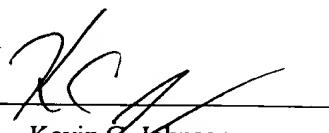
Furthermore, with respect to independent claim 6, there is the requirement that the lower layer of thermoplastic synthetic fibers be more hydrophilic than the upper layer but less hydrophilic than the core. The examiner has directed the applicants to col. 14, line 1 to col. 15, line 7 for such a teaching. While applicants agree that this passage does provide some teaching about hydrophilicity, nowhere can applicants find any teaching in this particular passage about the relationship of the hydrophilicity of the respective claimed layers.

As Reising fails to teach or disclose each and every element of claims 6 and 12, these claims cannot be anticipated by Reising. As to the remaining claims, 7-8 and 10-11, they all depend directly from independent claim 6 and are therefore not anticipated by Reising for the same reasons as given above with respect to claim 6. The Examiner is respectfully requested to withdraw the rejection under 35 USC 102.

SUMMARY

In view of all of the above, Appellants respectfully submits that Claims 6-8 and 10-12 are not anticipated by Reising, (U.S. Patent No. 4,988,345). Accordingly, Appellants respectfully request the Board of Patent Appeals and Interferences to reverse the Examiner's rejections, and remand with directions to allow all of the claims of the present application.

Respectfully submitted,

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Date: June 14, 2002

APPENDIX A

6. A sanitary napkin comprising:
 - a liquid permeable top layer;
 - a liquid impermeable back layer;
 - a liquid absorbent core disposed between said top layer and said back layer;
 - said top layer having a central zone and side zones at both sides of said central zone, said top layer including an upper layer of a thermoplastic synthetic resinous material and a lower layer of thermoplastic synthetic fibers which is more hydrophilic than said upper layer but less hydrophilic than said core;
 - said upper and lower layers being intermittently bonded together by thermally embossing said side zones; and
 - said central zone being thicker than said side zones.
7. A sanitary napkin according to Claim 6 wherein said lower layer is coextensive with substantially an entire surface of said upper layer.
8. A sanitary napkin according to Claim 6 wherein portions of said top layer and said back layer extending outward beyond a peripheral edge of said core are bonded together by a seal line.
10. A sanitary napkin according to Claim 6 wherein said thermoplastic synthetic resinous material is a fibrous nonwoven fabric.
11. A sanitary napkin according to Claim 6 wherein said thermoplastic synthetic resinous material is a perforated film.
12. A sanitary napkin comprising:
 - a liquid permeable top layer;
 - a liquid impermeable back layer;
 - a liquid absorbent core disposed between said top layer and said back layer;

said top layer having a central zone and side zones at both sides of said central zone, said top layer including an upper layer of a thermoplastic synthetic resinous material and a lower layer of thermoplastic synthetic fibers;

said upper and lower layers being intermittently bonded together by thermally embossing said side zones; and

said central zone being thicker than said side zones.

